

COMMENTS ON PROPOSED RULES

DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY

10 CFR PART 490

RIN1904-AB66

ALTERNATIVE FUEL TRANSPORTATION PROGRAM

ALTERNATIVE COMPLIANCE

SUBMITTED BY

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My name is George Survant and I currently serve as Director of Fleet Services for Florida Power & Light Company (FPL). Our company is a leader in providing clean and sustainable electricity to 4.4 million customers in Florida and we have wind energy generation, natural gas fired combined cycle generation and nuclear generation spread across 26 states outside of Florida.

I personally have been involved with alternative fuel transportation projects since the late 1970s when I was employed by GTE (a phone service provider) where we had demonstration projects in cooperation with the DOE spread across the 48 states served by that corporation. These projects included over 1000 propane fueled vehicles and 60 electric vehicles operating in three strategic locations nationwide.

Since the late 1970s, FPL and other firms have seen a variety of well intentioned initiatives at both the Federal and State level designed to reduce America's dependence on imported fuel and eliminate emissions to improve air quality. Over this time, none of these initiatives have proved to be sustainable in the market place.

Today, the alternatively fueled products we at FPL can purchase for use in real-world missions are limited to custom production power plants like the CNG/LNG diesel engines and selected models of cars and light trucks that can use E-85. In peninsular Florida, where the CNG infrastructure is limited to commercial users of CNG (as a result of the limited need for home heating), the FPL fleet containing over 3800 vehicles, including 1200 class 7 and 8 trucks which use over 65% of the fuel that FPL purchases, would have no commercial fueling options. Additionally, in Florida there are currently only a handful of commercial outlets for E-85 in the entire state and none in the FPL service territory. It is also worth noting that due to distribution and support issues, about one in three FPL refueling transactions are conducted in retail fuel outlets.

It is also true that FPL, as well as many other companies, has learned the need to be self reliant during times of crisis. Over the last few years, FPL had to (during disaster recovery operations) rely on large contingents of temporary labor from across the country that bring their own trucks and tools with them to support restoration efforts. In 2004 and 2005, FPL fielded restoration forces that peaked at approximately 16,000 and 19,000 workers respectively, requiring us to deliver as much as 190,000 gallons of fuel per day. Limited by the dimensions of the available help, FPL prepares to support only the most commonly sold trucks and cars.

Current compliance with the Energy Policy Act of 1992 requires that we purchase products that are largely unsupportable for broad utility application in Florida. As a result, we are enthusiastically endorsing the Department's focus in the Alternative Compliance language on what we see as a shift from a "solutions based" strategy to a "results based" strategy.

We congratulate the Department and Ms. Bluestein on listening to the groups impacted by these administrative requirements, and taking a bold and visionary step in a direction

that will reward participant companies for measurable results that achieve the specific goals of cleaning our environment and reducing our use of imported petroleum products. There are specific areas in the proposed language where we would request either additional clarification and/or expanded definitions that we feel are consistent with the overall goals of the alternative compliance language and should serve to encourage companies to expand their efforts:

1. Clarification regarding where petroleum reduction must occur:

Section 490.803(d) (iii) (2) states that the plan must provide for reduction of petroleum motor fuel by the State's or covered person's *own vehicles*. While we understand the intended exclusion of third parties, we believe that this language would unintentionally also exclude reduction of petroleum used in leased vehicles. Thus we suggest that clarification be provided in this section by adding the words found elsewhere in the notice referring to vehicles "owned, operated, leased or otherwise controlled by the covered person" as eligible for planned petroleum reduction.

2. Proposed inclusion of fork trucks and other off road vehicles:

In the Notice of Proposed rulemaking discussion on page 36035 of the June 23, 2006, Federal Register, DOE explains the rationale leading to the inclusion of fuel used in medium, heavy duty, and excluded light duty vehicles. We suggest that the wording in this section be expanded to state "medium, heavy duty, and excluded light duty vehicles, fork trucks, and other off road vehicles such as backhoes and front end loaders". These are vehicles that we are required to license when we operate them on the highway. More importantly, including them would result in increased waiver use and thus result in greater substitution of alternative fuels for petroleum. Their inclusion thus supports the stated basic purpose of the Energy Act of 1992 "to reduce our use of oil based fuels in our motor vehicle sector".

3. Clarification of this section:

"Will achieve a reduction in the annual consumption of petroleum fuels by its motor vehicles equal to the amount of alternative fuel the fleet's inventory of alternative fueled vehicles, including alternative fueled vehicles that the State or covered person would have been required to acquire in model years for which a waiver is received, would use if operated 100 percent of the time on alternative fuel."

4. Need for total alternative fueled vehicles (AFV's) in the fleet, and the total light duty vehicle fuel consumption.

We have reviewed the statute and considered the logic of the proposed rule and question both the statutory authority and need for DOE to require these two figures. With respect to the total number of AFV's, the statute refers to those vehicles subject to the "fuel use requirements of section 501". A fleet may have AFV's in their fleet for other than EPAAct requirements, thus the broader proposed rule language would mandate reporting of a

different number, not related to EPAAct requirements. With respect to total light duty fuel consumption, we find no legal basis for requiring this and are concerned about the administrative burden that generating this information may impose on some fleets.

5. Public Workshop comment regarding standardization of submissions.

At the July 12, 2006, public workshop, one attendee suggested standardizing the format of the plan and data submission to DOE. We feel that in the proposed rule DOE has wisely only defined the specific information to be included in the plan and data. Our opinion is that further standardization has the potential to inhibit the type of desirable innovation and creativity that will result in greater petroleum reduction. Thus we feel that the approach provided by DOE in the existing rule is best.

In summary, many of us in the community of Fleet Managers want to encourage the Department for the adoption of this language where creative means of compliance should be encouraged as well as an accelerant for emerging technological advances (like medium and heavy duty hybrids) that will evolve into mainstream products.